

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

KRISTOPHER HECK,

Plaintiff,

v.

PAYNE COUNTY

SHERIFF'S OFFICE, *et al.*,

Defendants.

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Case No. CIV-23-869-D

ORDER

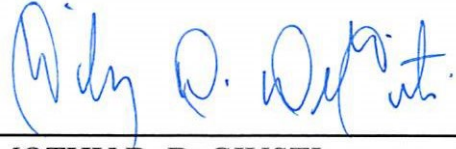
Before the Court is a Report & Recommendation from Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1) [Doc. No. 5]. Judge Mitchell recommends that the Court dismiss this case without prejudice due to Plaintiff's "failure to follow the Court's orders—specifically, his failure to either pay the full filing fee or request leave to proceed in forma pauperis." *Id.* at 1.

Within the time period for filing an objection to the Report & Recommendation, Plaintiff filed an Application for Leave to Proceed In Forma Pauperis [Doc. No. 7].¹ Under these circumstances, the Court finds that the case should not be dismissed.

IT IS THEREFORE ORDERED that the Report & Recommendation [Doc. No. 5] is **NOT ADOPTED**. The case is re-referred to Magistrate Judge Suzanne Mitchell for further proceedings consistent with the initial case referral [Doc. No. 3].

¹ Plaintiff has also filed an objection to the Report & Recommendation [Doc. No. 6], in which he claims that he was prevented from timely filing his in forma pauperis paperwork.

IT IS SO ORDERED this 22nd day of November, 2023.



TIMOTHY D. DeGIUSTI
Chief United States District Judge